

OFFICE OF THE ATTORNEY GENERAL

85-00523



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SEP 20 1985

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Honorable Elizabeth Lisenby
Crenshaw County Tax Assessor
P. O. Box 164
Luverne, Alabama 36049

Tax Assessors - Compensation

Under § 40-6-3, Code of Alabama 1975, salary of supernumerary tax assessor is based on average compensation earned during last four years served as tax assessor.

Dear Mrs. Lisenby:

In your request for an opinion you state that at the end of your current term of office on October 1, 1985 you will have served as Tax Assessor for 18 years and as Chief Clerk for 13½ years. You plan to become a Supernumerary Tax Assessor at that time. You state that for the fiscal year 1981-82 you received a commission of \$14,792.00. On October 1, 1982 you began to be compensated on a salary basis. You drew commissions of \$17,480.19 and a salary of \$20,000.00 during the same year of 1982-83. You drew a \$20,000.00 salary for fiscal years 1983-84 and 1984-85. You ask whether the commissions you received in fiscal year 1982-83 should be included in the basis for figuring your supernumerary compensation.

Section 40-6-3, Code of Alabama 1975, provides that supernumerary tax assessors shall receive a salary based on their "average compensation during the last four years served as an official charged with assessing and collecting ad valorem taxes". The apparent intent of the Legislature in enacting § 40-6-3 was to provide that the salary of supernumerary taxing officials be based on such official's average annual salary earned during the last four years in which the official held office. The reason that you received both a commission and a salary during fiscal year 1982-83 is because your commission was earned for work done during the prior year but not received by you until the 1982-83 fiscal year. Since you went on a salary basis of compensation in October of 1982, you drew both a commission and a salary for that particular year. Statutes should be construed so as to implement the intent of the Legislature. Gundy v. Ozier, 409 So. 2d 764 (Ala. 1981). It is doubtful whether the Legislature intended

that you receive a supernumerary salary based upon amounts that you received in your final four years in office, which amounts are actually in payment for five years' work. Such an interpretation would result in a disparity between the supernumerary compensation of tax assessors and tax collectors in Alabama.

Your supernumerary salary will be computed based upon earnings of \$20,000 annually for the fiscal years 1982-83, 1983-84, and 1984-85 plus commissions earned in 1981-82.

Sincerely yours,

CHARLES A. GRADDICK

Attorney General

By -

A handwritten signature in cursive script that reads "Don E. Lawley". The signature is written in dark ink and is positioned above the printed name and title of the signatory.

DON E. LAWLEY

Assistant Attorney General

CAG:DEL:dh